

# **EXHIBIT D**

## Patrick Murphy

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**From:** Patrick Murphy  
**Sent:** Monday, August 12, 2024 6:02 AM  
**To:** Paula Colbath; David Forrest  
**Cc:** Marc Gottlieb  
**Subject:** Pat Murphy's First of Two Conferral Letters Concerning MineOne's Six Subpoenas to Bryce Fincham, CMV, and BayView Capital.  
**Attachments:** CMV Investment in BCB - CONFIDENTIAL.pdf; ATT00001.htm; Exhibit1 - CONFIDENTIAL.pdf; ATT00002.htm

Dear Paula:

Last Friday, August 9, I sent you BCB's, Dr. Fincham's, CMV Global's, and Bayview Capital Investments' objections to the six subpoenas MineOne served on Dr. Fincham and those two LLC's on August 5. Their objections still stand, but BCB and these passive investors are willing to provide you the following responsive information in an effort to confer on our objections and provide you with some of the requested information in exchange for you withdrawing MineOne's six vexatious subpoenas later this morning.

We have already gone to the expense and effort of retaining counsel in the Northern District of Illinois and the Southern District of Ohio to file our Motions to Quash, and our Motions to Stay Pending Transfer, with each of those federal courts later this afternoon. I will soon provide you with near-completed drafts of the two Motions we will file in the Southern District of Ohio later this afternoon (so you can see what we will be filing should you be unwilling to accept the following information in exchange for your withdrawal of the subpoenas to these passive investors). I am still working on the two Motions we will file in the Northern District of Illinois, but they are very similar to the Motions we will be filing in the Southern District of Ohio.

I am attaching pdfs showing (1) CMV's \$3M investment in BCB, and (2) the return of the \$3M from BCB to CMV. We already provided the latter to Defendants (as an exhibit to Michael Murphy's Bond Amount Affidavit).

Here is the information regarding the investments (and return thereof):

- CMV Global raised \$2.65M in early January 2022 (including \$1M from Dr. Bryce Fincham), executed a Unit Purchase Agreement with BCB on January 16, 2022 for 2,650 Class C units, and then sent the \$2.65M to BCB on January 18, 2022 (see attached PDF) in return for 2,650 Class C membership units.
- After this, CMV Global raised another \$350k for investing into BCB. CMV executed a Unit Purchase Agreement with BCB on January 17, 2022 for 200 additional Class C units, and CMV executed a Unit Purchase Agreement with BCB on June 30, 2022 for an additional 150 Class C units. CMV sent the \$350k for these additional 350 Class C units to BCB on July 18, 2022 (see attached PDF).
- BCB and CMV signed a Membership Interest Redemption Agreement on August 8, 2022 in which CMV redeemed 350 Class C membership units (which had originally been bought for \$350k). BCB returned \$350k to CMV on August 10, 2022 to redeem and assume these 350 Class C membership units.
- BCB passed a Corporate Resolution on February 7, 2023 to return the remaining \$2.65M of CMV's initial capital contributions to CMV (while CMV would continue to hold its remaining 2,650 Class C membership units). BCB sent the \$2.65M to CMV on February 10, 2023 (see attached PDF).

- BCB and Bryce Fincham executed a Unit Purchase Agreement for 100 Class D membership units on May 13, 2023 (with an effective date of May 1, 2023). Bryce Fincham deposited \$10 to purchase these units on May 15, 2023. These units were provided to Dr. Fincham as a bonus for him investing \$1M into CMV in January 2022.
- BCB and Bayview Capital Investments executed a Unit Purchase Agreement for 150 Class D membership units on May 24, 2023 (with an effective date of May 6, 2023). These units were provided to Bayview Capital Investments as a performance incentive for Bayview Capital raising \$3M through CMV Global to invest in BCB.

Dr. Fincham's 100 Class D units and Bayview Capital's 150 Class D units currently represent 0.167% and 0.250% ownership interests in BCB, respectively. Neither Dr. Fincham nor Bayview Capital had (or currently have) anything to do with BCB's management or operations. Dr. Fincham and Bayview Capital are passive investors with very minimal direct ownership in BCB. Further, given that Dr. Fincham and Bayview Capital executed their respective Unit Purchase Agreements after May 3, 2023, neither Dr. Fincham nor Bayview Capital were BCB members as of the May 3, 2023 filing of BCB's Federal Court lawsuit, and as such, are outside the scope of allowable discovery.

Bryce Fincham, Bayview Capital Investments, and/or CMV Global did not provide any monies, investments, contributions, transfers, loans, payments, or other consideration to Michael Murphy, Emory Patterson, Neil Phippen, and/or BCB Ventures LLC.

You can certainly examine BCB's Michael Murphy about any or all of the above information when you depose him — to confirm its truth.

We perceive these six subpoenas to passive investors Bryce Fincham, CMV Global, LLC and Bayview Capital Investments, LLC are another one of MineOne's discovery fishing expeditions meant to harass and intimidate BCB's passive investors (like MineOne earlier did with Tim Desrochers for jurisdictional purposes). BCB has not sent subpoenas to the passive investors/members of MineOne Wyoming Data Center, LLC, and MineOne should not be doing that to BCB's passive investors and/or members. Just as we would not be allowed to serve discovery subpoenas on the shareholders of a corporation in a case where the corporation is the party Plaintiff or Defendant, MineOne is not allowed to serve discovery subpoenas on the investors of BCB, a limited liability company. To do otherwise is simply lawfare and inconsistent with Rule 1 of Federal Rules of Civil Procedure ("[These rules] should be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding").

Thank you, Paula.

Pat Murphy  
Counsel for BCB, Dr. Fincham, CMV Global, LLC and Bayview Capital Investments, LLC